

BEFORE THE DIVISION OF WATER RIGHTS

<p>In The Matter Of:</p> <p>John Justice Kay Parrish Darvel Cook</p> <p>RESPONDENT</p>	<p>MEASURING DEVICE AND CONTROL STRUCTURE NOTICE</p> <p>SEAA No. 1346 DISTRIBUTION ACCOUNTS: 100605, 100613, 100616 WATER RIGHTS: 43-716, 43-717, 43-718, 45-515, 522, 523, 524, 905, 906, 5246, 5284 et al.</p>
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I. AUTHORITY

The Division of Water Rights ("Division") issues this Notice under UTAH CODE ANN. § 73-5-4 (2008), and in accordance with UTAH ADMIN. CODE R. 655-15 (2008).

U.C.A. § 73-5-4 states in part :

(1) To assist the state engineer or water commissioner in the regulation, distribution, and measurement of water, a person using water in this state, ... shall construct or install and maintain controlling works and a measuring device at:

- (a) each location where water is diverted from a source; and*
- (b) any other location required by the state engineer.*

(2) A person using water in this state shall make the controlling works and measuring device accessible to the state engineer or water commissioner.

(3) The state engineer shall approve the design of:

- (a) the measuring device; and*
- (b) controlling works so that the state engineer or a water commissioner may regulate and lock the works. ...*

(6) If a water user refuses or neglects to construct or install the controlling works or measuring device after 30 days' notice to do so by the state engineer, the state engineer may:

- (a) forbid the use of water until the user complies with the state engineer's requirement; and*
- (b) commence enforcement proceedings authorized by Section 73-2-25.*

II. STATEMENT OF FACTS

1. The Respondent diverts water from Deep Creek/Mosby Creek at what is known as the Justice's Diversion.
2. The rating table and the keys to the locks for the constant head orifice must be available to the Deep Creek water commissioner.

SCANNED

3. There are multiple water users receiving water from this diversion and they should share the costs associated with complying with this notice in accordance with the proportional amounts of water delivered to each user.
4. Please identify all the water users and the water rights they use at this diversion if there are more than those identified above.
5. The measuring device is located near the point North 1097 ft and West 989 ft from the SE Corner of section 17, T 1 North Range 2 East, US B&M.

III. ACTIONS REQUIRED

1. The respondent must provide key access to the water commissioner to have access to the water measuring device gates at the Justice Diversion.
2. Instructions and the rating table for the measuring device should be provided to the commissioner.
3. If the Respondent cannot demonstrate that the existing flow-measuring device is both accurate and operable, a water meter must be installed to enable the commissioner to properly regulate and report the water delivered without spending a lot of time on this diversion. The orifice gates may be used for checking a meter calibration, but a totalizing flow meter is the preferred method of water measurement in most all pipelines.
4. There should also be a backup measuring device that can be used to periodically verify the calibration of the pipeline meter. This may include something as simple as maintaining the existing measuring device in working order to be able to use it to verify the meter is performing properly.
5. The work must be completed before April 15, 2010.

IV. ADDITIONAL AGENCY ACTION

1. The Respondent is encouraged to diligently attend to the work required by this Notice. If the work is satisfactorily completed in a timely manner, the Division will conclude this agency action.
2. If the work is not satisfactorily completed in a timely manner, the Division may issue an Order forbidding the use of water until the Respondent has complied, or may commence an enforcement action as allowed under Utah Code Ann. § 73-5-4 (5).
3. If an Order forbidding the use of water is issued and is violated by the Respondent, the Division may commence an enforcement action in accordance with Utah Code Ann. § 73-2-25 (2008).
4. If determined to be in violation of an Order, the Respondent may be subject to administrative penalties in accordance with Utah Code Ann. § 73-2-26 (2005), including fines not to exceed \$5,000 per day for knowing violations or \$1,000 per day for unknowing violations and replacement of up to 200% of water diverted without right. In addition, the Respondent may be liable for expenses incurred by the Division in investigating and stopping the violation."

V. FURTHER INFORMATION


If the Respondent has any questions concerning this Notice, state laws and rules, or the required and recommended action, please discuss them with:

Robert Leake
Regional Engineer
Vernal Office/Eastern Region
Utah Division of Water Rights
(435) 781-5327

Ben Anderson
Water Rights Distribution Engineer
Utah Division of Water Rights
(801) 538-7469

1594 W North Temple Ste 220
P.O. Box 166300
Salt Lake City, UT 84104-6300

Dated this 30th day of September, 2009



Ben L. Anderson, P.E.
Water Rights Distribution Engineer

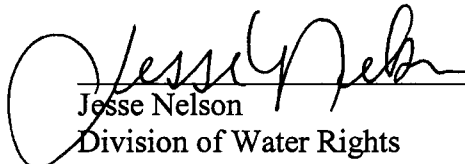
CERTIFICATE OF MAILING

I, the undersigned, certify that on this 30 day of September, 2009, I mailed a copy of the foregoing Notice by regular U.S. Mail, delivery confirmation receipt requested, to the following:

**John W. Justice
P O Box 265
Lapoint, UT 84039**

**Kay D. Parrish
Rt 2 Box 2294
Ballard, UT 84066**

**Darvel Cook
2002 N 1500 W
Vernal, UT 84078**



Jesse Nelson
Division of Water Rights
Field Services Secretary

cc: Robert Leake, Regional Engineer
Kristopher Blanchard, Water Commissioner

U.S. Postal Service™ Delivery Confirmation™ Receipt

Postage and Delivery Confirmation fees must be paid before mailing.

Article Sent To: (to be completed by mailer)

Please Print Clearly
Darvel Cook
2002 N 1500 W
Vernal, UT 84078

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Kay D. Parnish
Rt 2 Box 2294
Ballard, UT 84066

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